



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTON
ATTORNEY GENERAL

July 31, 1990

Mr. A.W. Pogue
Commissioner
State Board of Insurance
1110 San Jacinto
Austin, Texas 78701-1998

OR90-350

Dear Mr. Pogue:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9462.

You received a letter of April 17, 1990 from Antonio Cantu of the San Antonio Business Journal requesting documents detailing Daniel F. Sexton's business dealings in Texas. The State Board of Insurance is conducting an investigation of the activities of Daniel F. Sexton as an insurance agent, and you state that the investigation will probably lead to disciplinary action against Mr. Sexton. You claim that the documents are exempt from disclosure by sections 3(a)(3) and 3(a)(11) of the Open Records Act.

The file includes letters to and from Mr. Sexton. One letter sent to Mr. Sexton encloses a copy of the complaint that is under investigation. The information that has been provided to Mr. Sexton is not exempt from disclosure by section 3(a)(3). Open Records Decision No. 349 (1982). The employees of the State Board of Insurance and Mr. Sexton do not stand in the kind of relationship necessary to invoke section 3(a)(11). See generally Austin v. City of San Antonio, 630 S.W.2d 391 (Tex. App. - San Antonio 1982, writ ref'd n.r.e.). Mr. Sexton is not an employee of the agency, nor is he a consultant; thus, section 3(a)(11) does not apply to correspondence between him and the board. See Open Records Decision No. 283 (1981); Open Records Decision No. 192 (1978).

The remaining information in the file is excepted from disclosure by section 3(a)(3). See Open Records Decision No. 551 (1990). Although Mr. Sexton probably had access to some of the remaining documents at one time, he does not necessarily know that the board has these items of evidence

for his hearing. Thus, the documents that bear his name or otherwise indicate that he may have seen them in the past are within the protection of section 3(a)(3), unless he provided them to you.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-350.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/le

Ref.: ID# 9462

Enclosure: Open Records Decision Nos. 551, 349, 283, 192
Documents Submitted

cc: Karen Cox
State Board of Insurance

Antonio Cantu
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